HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No.395 OF 2005

Dated 12-12-2005

Between :

N. Ramesh Babu, son of N.N.Gangaiah, aged about 40 years, President/Secretary-cum-Correspondent, SBVD Sabha Group of Educational Institutions, Pullampet, Kadapa District.

….Petitioner.

And :

1. The Commissioner of Intermediate Education, Govt. of Andhra Pradesh, Hyderabad and others.

…Respondents.

ORDER :

This writ petition has been filed by one N. Ramesh Babu with a prayer to issue a writ or a direction more particularly one in the nature of writ of mandamus to declare the proceedings No.11917/B5/2004 dated 28-12-2004 of the District Educational Officer-2nd respondent and the proceedings Rc. No. Admn-I-2/13/2005 dated 10-01-2005 of the Commissioner of Intermediate Education, A.P., Hyderabad-1st respondent as arbitrary and illegal.

2. Sri Bahuthama Vidya Dana Sabha (S.B.V.D) has established several educational institutions in Pullampeta, Kadapa District. In 1994-95, SBVD started a Degree College. Consequent to the death of one N. Chinnaiah, President-cum-Correspondent of S.B.V.D. Educational Society on 07-12-2004, a general body meeting of the society came to be called for and wherein resolution Number 137 dated 8-12-2004 came to be passed nominating the petitioner as Secretary-cum-Correspondent of S.B.V.D Sabha Group of Educational Institutions, Pullampeta, Kadapa District. A letter to this effect has been sent to the respondents-authorities

under section 24 of the A.P. Education Act, 1982 intimating the nomination of the petitioner as Secretary-cum-Correspondent of the S.B.V.D Sabha Group of Educational Institutions, Pullampeta, Kadapa District. Some despites arose among the members of the Managing Committee. Consequently, proceedings came to be issued by the District Educational Officer, Kadapah in R.C.No.11917/B5/2004 dated 28-12-2004 whereby the Deputy Educational Officer, Rayachoty has been authorized to draw and disburse the salaries of the staff of S.B.V.D. Sabha High School, Pullampet as per the Grant-in-Aid Code. Another proceeding by the Commissioner of Intermediate Education has also been issued on 10-01-2005 whereby the District Educational Officer has been directed to prepare and submit the salary bills of S.B.V.D. Sabha Junior College. Assailing these two proceedings, the petitioner has filed this writ petition by invoking the jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. The respondents filed counter-affidavits. One K.V.V. Satyanarayana has sworn to the counter-affidavit filed on behalf of the respondents 1 to 3.

It is stated in the Counter-affidavit that the nomination of the petitioner as Secretary-cum-Correspondent is contrary to bye-laws and therefore, his nomination cannot be accepted or recognized by the authorities under section 24 of the A.P. Education Act. The relevant portion of the counter-affidavit reads as follows :

> “Further it is submitted that, Dr. G.V. Prasad, MLA,Kodur Assembly Constituency under which the
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> College existed has requested to appoint a Special Officer to the Junior College. He also started that the Executive Body elected on 27-01-2003 is bogus and managing Body was manipulated and formed under the Presidentship of Sri N. Rasmesh Babu, played a foul role and dethroned the then President Sri B. Ramamurthy without conducting general body elections as per the bye laws of the Society. And also he stated that there are some differences between the Secretary and the Correspondent Sri N. Chinnaiah and the President Sri N. Rasmesh Babu. The alleged election of Ramesh Babu on 8-12-2004 can not be recognized, as the same is not in accordance with the bye-laws of the society. As per the bye-laws of the society (bye-laws 35) a person can be nominated by the members in a meeting, when a vacancy arises due to some exigencies. The method of conducting a meeting is stipulated in by-law number 23 which clearly states that the meeting can be convened with a notice of five days to all the members after intimating them about the issue that will be discussed in the meeting in a notice form. Here obviously the meeting was convened on 8-12-2004 when Chinnaiah died on 7-12-2004 i.e., the very next day without giving five days prior notice to the members. No copy of the notice is submitted before the authorities and the alleged election/nomination of the petitioner as Correspondent alone was submitted before the authorities for recognizing him as a Secretary. As his nomination as secretary and correspondent itself

is the contrary to the by-laws, such nomination can not be accepted or recognized by the authorities under section 24 of AP. Education Act. Hence the alleged election or nomination by the members in meting convened on 8-12-2004 can not be recognized. As such basing on the recommendations of the R. J. D. I. E. District Collector and staff of the College the impugned orders rightly passed only to facilitate payment of salaries to the staff in time, pending redressal. If the dispute with regard to the Secretary/Correspondentship of the College."

4. One Y. Balaiah has sworn to the Counter filed on behalf of the respondents 2 and 4.

It is stated in the counter-affidavit that under the provisions of sub-section (2) of section 24 of Andhra Pradesh Education Act 1 of 1982 read with statutory orders issued in G.O.Ms.No.74 Edn. Dt.27/2/1989 and GO Ms.No.147, Education dt.21-06-1990, the Director of School Education AP Hyderabad is competent authority to appoint Special Officer. To avoid hardship of the staff in the institution, as per Rule 15 of Grant-in-aid code, the Deputy Educational Officer Rayachoty has been authorized to draw and disburse the salaries of the staff of the High School, till further orders, vide office Progs. Rc.No.11917/B5/2004 dated 28-12-2004. Regarding the appointment of Special Officer, separate proposals have been submitted to the Director of School Education AP Hyderabad through the Regional Joint Director of School Education, Cuddapah in Lr. Dt.28-12-2004. In turn the Regional Joint Director of School Education Cuddapah vide his Lr. Dt.22/1/05 has submitted the proposals to the Director of School Education AP, Hyderabad.

5. Reply affidavit has been filed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Pleader for Higher Education and the learned Government Pleader for School Education.

7. The learned counsel for the petitioner submits that the Civil Court has seized of all the disputes interse among the Managing Committee of the society and the Civil Court neither passed any interim order nor suspended the resolutions whereunder the petitioner has been appointed as Secretary-cum-Correspondent and in that view of the matter, the proceedings impugned in this writ petition are not legal and proper.

8. He further submits that under section 24 of the A.P. Education Code, 1982, the role of the competent authority is to recognize the person appointed by the

Managing Committee as Secretary-cum-Correspondent and the role of competent authority is not to adjudicate the dispute between the rival parties over the appointment of Secretary-cum-Correspondent. He refers sub-section 2 of section 24 of the Education Act, 1982.

9. The learned Government Pleader for School Education submits that the proceedings impugned in the writ petition came to be issued because of the disputes among the members of the Managing Committee of the society and that the proceedings are only to enable the staff working in the petitioners school run by the society to draw the salary of the staff.

10. A fact remains that a suit has been filed questioning the elections of managing committee held on 27-01-2003 and the said suit being O.S.No.280 of 2003 is pending on the file of Junior Civil Judge Court, Nandalur No interim orders seem to have been issued in the said suit. It indicates that the resolution whereunder the petitioner has been nominated as Secretary-cum-Correspondent holds good as on this day. Under section 24 of the A.P. Education Act, 1982, the role of competent authority is to recognize the person appointed as Secretary-cum-Correspondent of the respective private institutions.

11. In that view of the matter, the respondents 1 and 2 are not justified in issuing the proceedings impugned in the writ petition and the proceedings virtually amount to preventing the petitioner, who has been duly nominated by the managing Committee of S.B.V.D. as Secretary-cum-Correspondent, in discharging his functions as Secretary-cum-correspondent of S.B.V.D. Group of Educational institution.

12. Accordingly, the writ petition is allowed declaring the proceedings No.11917/B5/2004 dated 28-12-2004 of the District Educational Officer-2nd respondent and the proceedings Rc. No. Admn-I-2/13/2005 dated 10-01-2005 of the Commissioner of Intermediate Education, A.P., Hyderabad-1st respondent as inoperative as long as the resolutions whereunder the petitioner has been nominated as Secretary-cum-Correspondent are not interfered by the Civil Court. In case, the Civil Court makes any alternative arrangements, the arrangements made by the Civil Court prevails over the resolutions passed by the society. No costs.

Justice B.SESHASAYANA REDDY

Date : 12-12-2005.

Dvs

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